

David A Graboden  
 Name  
715 Candelaria Rd NE  
 Address  
Albuquerque NM 87107

FILED  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF NEW MEXICO

16 JUL 27 PM 2:14 *KK*

CLERK ALBUQUERQUE

UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW MEXICO

David A Graboden, Plaintiff  
 (Full Name)

CASE NO. 16 cv 864 SMV  
 (To be supplied by the Clerk)

v.

Barbara Graboden, Defendant(s)

CIVIL RIGHTS COMPLAINT  
 PURSUANT TO 42 U.S.C. §1983

A. JURISDICTION

1) David A Graboden, is a citizen of New Mexico  
 (Plaintiff) (State)  
 who presently resides at 715 Candelaria Rd. NE,  
 (Mailing address or place of confinement)  
Albuquerque, NM 87107

2) Defendant Barbara Graboden is a citizen of  
 (Name of first defendant)  
Albuquerque New Mexico, and is employed as  
 (City, State). At the time the claim(s)

(Position and title, if any)  
 alleged in this complaint arose, was this defendant acting under color of state law?

Yes  No  If your answer is "Yes", briefly explain:

- 3) Defendant \_\_\_\_\_ is a citizen of  
(Name of second defendant)  
\_\_\_\_\_, and is employed as  
(City, State) . At the time the claim(s)  
(Position and title, if any)  
alleged in this complaint arose, was this defendant acting under color of state.  
Yes  No  If your answer is "Yes", briefly explain:

(Use the back of this page to furnish the above information for additional defendants.)

- 4) Jurisdiction is invoked pursuant to 28 U.S.C. §1333(3), 42U.S.C. §1983. (If you wish to assert Jurisdiction under different or additional statutes, you may list them below.)

#### B. NATURE OF THE CASE

- 1) Briefly state the background of your case.

## C. CAUSE OF ACTION

- 1) I allege that the following of my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary, you may attach up to two additional pages (8 1/2" x 11") to explain any allegation or to list additional supporting facts.

A)(1) Count I:

(2) Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

B)(1) Count II:

(2) Supporting Facts:

C)(1) Count III:

(2) Supporting Facts:

D) PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1) Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?

Yes  No  If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

a) Parties to previous lawsuit.

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

b) Name of court and docket number:

c) Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

d) Issues raised: \_\_\_\_\_

- e) Approximate date of filing lawsuit: \_\_\_\_\_
- f) Approximate date of disposition: \_\_\_\_\_
- 2) I have previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C. Yes  No  If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No," briefly explain why administrative relief was not sought.

#### E. REQUEST FOR RELIEF

- 1) I believe that I am entitled to the following relief:



\_\_\_\_\_  
Signature of Attorney (if any)



\_\_\_\_\_  
Signature of Petitioner

Attorney's full address and telephone number.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1746. 18 U.S.C. Sec. 1621.

Executed at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_\_  
(Location) (Date)



A handwritten signature in black ink, appearing to read "D. J. Miller".

(Signature)

United States District Court

for the

David A Gabaldon

Civil Action No.

v.

Barabara Gabaldon

On October 31, 2013. I was arrested for DV. 475713. I stay in jail 3.5 month. I was on pretrial for 2 months afterward. I been homeless and having hard time getting back to my normal life and been around a lots people that desperado. My mind has been alter to mental anguish.

Facts

Due to me being in custody, I was having High blood pressure problems, it so stressful going to court. Then while on pretrial, I had to live shelter that over flow for winter cause it to cold outside that was the old west jail where stayed. I also having to deal with the Authority around me. I lost all belonging, personal item and family. Then Trying to get job and the employers look up arrested history think that, I David A Gabaldon is the worse person around ever. On April 4, 2014. Barbara Gabaldon showed up for trail. When the court started it, Barbara Gabaldon left the court room. The Da. Asked for dismissal. Due to lack of witness.

WHEREFORE it is demanded the Court issue judgment against the Respondents as Follows:

For every day being in custody the dollar amount will be \$2500 per day. Then for every day being on pretrial the dollar amount will be \$1200 per day. Due to the heartache of all my lost with vehicle and personal item, harsh time. Living in place that was not normal. The Total amount will \$300,000.00 to cover all issue.

/s/ \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
CITY OF ALBUQUERQUE  
IN THE METROPOLITAN COURT

STATE OF NEW MEXICO

v.

FILED IN THIS OFFICE

Time: 2:04

APR 04 2014

CLERK METROPOLITAN COURT  
CRIMINAL DIVISION

BY WJS

No. T-4-DV-2013-004757

DAVID GABALDON, Defendant.

**NOTICE OF DISMISSAL**

The above captioned case is a

FELONY CASE

NON-FELONY CASE

The State of New Mexico hereby files a nolle prosequi in the above captioned cause.

Upon the Defendant's submission to a Forensic Assessment, a finding was reached that requires a dismissal pursuant to Section 31-9-1 NMSA 1978 (2012).

*Ellen Lloyd*  
Ellen Lloyd, Assistant District Attorney  
520 Lomas Blvd NW, 4<sup>th</sup> floor  
Albuquerque, NM 87102  
(505) 222-1002  
Elloyd@da2nd.state.nm.us

I hereby certify that a true and correct copy of this motion was

mailed  
 faxed to  
 sent through inter-office mail  
 hand-delivered in open court

TO:

Public Defender

ON: 4-4, 2014.

*Ellen Lloyd*  
Ellen Lloyd, Assistant District Attorney

*DR*  
414 114

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**REGISTER OF ACTIONS****CASE NO. T-4-DV-2013-004757****STATE OF NEW MEXICO VS. GABALDON, DAVID A**

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Case Type: Domestic Violence  
 Date Filed: 10/31/2013  
 Location: Bernalillo County Metropolitan Court  
 Judicial Officer: Walton, Sharon D.  
 Law Enforcement Case Number: 13-383144  
 Metro Court Legacy Case Number: DV475713

**PARTY INFORMATION**

Defendant	<b>GABALDON, DAVID A</b> <i>Also Known As</i> GABALDON, DAVID ANTHONY 5804 MARQUETTE AVE SE APT C ALBUQUERQUE, NM 87108 DL: NM107791710	Male DOB: 03/21/1979 SSN: XXX-XX-4573 5' 8"	Attorneys Public Defender - Albuquerque Retained 505-841-5100(W)
Plaintiff	State of New Mexico		
Victim	<b>GABALDON, BARBARA</b> UNK UNK, NM 0		

**CHARGE INFORMATION**

Charges:	<b>GABALDON, DAVID A</b>	Statute	Level	Date
1.	VIOLATING A PROTECTION ORDER	40-13-6	Misdemeanor	10/30/2013

**EVENTS & ORDERS OF THE COURT**

	<b>DISPOSITIONS</b>
10/31/2013	<b>Plea</b> (Judicial Officer: Duran, R. John) 1. VIOLATING A PROTECTION ORDER Not Guilty
04/04/2014	<b>Disposition</b> (Judicial Officer: Ramczyk, Daniel E.) 1. VIOLATING A PROTECTION ORDER Dismissed - Defendant Incompetent
	<b>OTHER EVENTS AND HEARINGS</b>
01/06/2013	<b>CANCELED</b> Review Conditions of Release Hearing (10:30 AM) (Judicial Officer Walton, Sharon D.) Vacated Result: Vacated
10/31/2013	<b>Request for Hearing/Speedy</b>
10/31/2013	<b>Custody Arraignment</b> (9:30 AM) (Judicial Officer Duran, R. John) CHARGE 1: PER JUDGES DISPO ADDED TO COR MLOPEZ FOR AMERCANDANT 12/23/13 Result: Hearing Held
11/06/2013	<b>ENTRY OF APPEARANCE FILED</b>
12/05/2013	<b>Request for Hearing/Speedy</b>
12/05/2013	<b>Pre-Trial Conference</b> (8:45 AM) (Judicial Officer Walton, Sharon D.) CHARGE 1: DISC. DOCS RECVD BUT ORDER OF PROTECTION NEEDED..STATE HAS ORDERED AND WILL PROVIDE..DEF. MTN TO REVIEW COND OF STATE TO NOTIFY AV..SET TO REVIEW COR 10 + DAYS..SSFT Result: Hearing Held
12/17/2013	<b>Review Conditions of Release Hearing</b> (10:30 AM) (Judicial Officer Walton, Sharon D.) CHARGE 1: Instructions AUTHORIZE CCP EVALUATE BY MDC Result: Hearing Held
01/09/2014	<b>ORD: TRANSFER ORDER FOR COMPETENCY DETERMINATION</b>
01/09/2014	<b>CANCELED</b> Bench Trial (9:00 AM) (Judicial Officer Walton, Sharon D.)
	<b>Continued</b>
01/16/2014	Result: Continued
01/16/2014	<b>ORD: ORDER FILED</b> ORDER OF ASSIGNMENT FROM ORIGINAL JUDGE TO SPECIALTY COURT JUDGE - JUDGE RAMCZYK - GRANTED AND FILE ON 1/16/14
01/17/2014	<b>ORD: TRANSFER ORDER FOR COMPETENCY DETERMINATION</b>
01/17/2014	<b>CANCELED</b> Competency Review (1:30 PM) (Judicial Officer Ramczyk, Daniel E.) Continued CHARGE 1: EVAL COMPLETED, AWAITING REPORT. D IN JAIL 78 DAYS. AV DOES NOT OBJECT TO RELEASE OF D, BUT SHE WANTS NO CONTACT, RESET IN 7 DAYS. KEEP BOND AS IS. Result: Continued
01/24/2014	<b>ORD: TRANSFER ORDER FOR COMPETENCY DETERMINATION</b>
01/24/2014	Order of Competency Filed
01/24/2014	Release Defendant This Case

01/24/2014 Competency Review (1:30 PM) (Judicial Officer Ramczyk, Daniel E.)  
CHARGE 1: Instructions RELEASE DEF NEXT DAY IN A.M. PTS THROUGH COMPETENCY PROB. EVAL WITH DRAWN. REMAND TO TRIAL COURT. D IN JAIL 86 DAYS. D RELEASED TO PTS THRU CC. SF TRIAL.

01/30/2014 Result: Hearing Held  
ORD: ORDER FILED  
ORDER OF ASSIGNMENT - SPECIALTY COURT CASE REMANDED BACK TO TRIAL COURT JUDGE GRANTED & FILED ON 1/30/14

03/06/2014 Reset Trial (9:00 AM) (Judicial Officer Walton, Sharon D.)  
Parties Present  
03/06/2014 Reset by Court to 03/06/2014

Result: Reset

03/06/2014 ORD: For Diagnostic Evaluation/Additional Release Conditions  
Document attached by Browse Docket service.

03/12/2014 ORD: ORDER OF JUDGE ASSIGNMENT  
Order of Reassignment to Specialty Court Judge Ramczyk from Original Judge Walton, filed and granted.

03/14/2014 Competency Review (1:30 PM) (Judicial Officer Ramczyk, Daniel E.)  
Result: Reset

03/14/2014 NTC: OF HEARING (Judicial Officer: Ramczyk, Daniel E. )

03/14/2014 MTN: FOR CONTINUANCE (Judicial Officer: Ramczyk, Daniel E. )

03/14/2014 ORD: FOR CONTINUANCE (Judicial Officer: Ramczyk, Daniel E. )  
Case reset for 4/4/14 at 1:30 PM

04/04/2014 Competency Review (1:30 PM) (Judicial Officer Ramczyk, Daniel E.)  
Parties Present  
04/04/2014 Reset by Court to 04/04/2014

Result: Adjudicated

04/04/2014 NTC: Notice of Dismissal (All Charges) (Judicial Officer: Ramczyk, Daniel E. )